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Attorneys for Plaintiff and Counter-defendant Epic Games, Inc.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

EPIC GAMES, INC.,

Plaintiff, Counter-defendant,
v.

APPLE INC.,

Defendant, Counterclaimant.

Case No. 4:20-cv-05640-YGR-TSH

**DECLARATION OF M. BRENT
BYARS IN SUPPORT OF EPIC
GAMES, INC.'S
ADMINISTRATIVE MOTION TO
SEAL PORTIONS OF ITS EXPERT
WRITTEN DIRECT
EXAMINATIONS**

Judge: Hon. Yvonne Gonzalez Rogers

DECLARATION OF M. BRENT BYARS IN SUPPORT OF EPIC'S ADMINISTRATIVE MOTION TO SEAL PORTIONS OF ITS EXPERT WRITTEN DIRECT EXAMINATIONS

Case No.: 4:20-cv-05640-YGR-TSH

1 I, M. Brent Byars, declare as follows:

2 1. I am a Senior Attorney at Cravath, Swaine & Moore LLP, counsel to Epic
 3 Games, Inc. ("Epic") in the above-captioned actions. I am admitted to appear before this Court
 4 *pro hac vice*.

5 2. I submit this declaration pursuant to Civil Local Rule 79-5. The contents of this
 6 declaration are based on my personal knowledge.

7 3. Epic's Expert Written Direct Examinations contain materials that Apple or third
 8 parties have designated as CONFIDENTIAL or HIGHLY CONFIDENTIAL pursuant to the
 9 Protective Order entered in this Court. Epic is serving its Motion and Declaration on the
 10 affected third parties pursuant to Civil Local Rule 79-5(e). The following Table shows each
 11 affected third party and the corresponding portion of written direct testimony that may contain
 12 information provided by each party.

Expert Written Direct Paragraph or Footnote Number	Affected Party
Barnes Opening 2	Apple
Barnes Opening 4	Apple
Barnes Opening 5	Apple
Barnes Opening 6	Apple
Barnes Opening 7	Apple
Barnes Opening 8	Apple
Barnes Opening 9	Apple
Barnes Opening 10	Apple
Barnes Opening 11	Apple
Barnes Opening 12	Apple
Barnes Opening 13	Apple
Barnes Opening 14	Apple
Barnes Opening FN1	Apple

1	Barnes Opening 15	Apple
2	Barnes Opening 16	Apple
3	Barnes Opening 17	Apple
4	Barnes Opening 18	Apple
5	Barnes Opening 19	Apple
6	Barnes Opening 20	Apple
7	Barnes Opening 21	Apple
8	Barnes Opening 25	Apple
9	Barnes Opening 27	Apple
10	Evans Opening 43	IDC
11	Evans Opening FN3	Apple, IDC
12	Evans Opening 51	Samsung
13	Evans Opening FN5	Samsung
14	Evans Opening 53	App Annie
15	Evans Opening 74	IDC
16	Evans Opening 79	IDC
17	Evans Opening 80	App Annie
18	Evans Opening 81	IDC
19	Evans Opening 88	Google
20	Evans Opening FN27	Google
21	Evans Opening 107	Microsoft
22	Evans Opening 141	Apple
23	Evans Opening 149	Apple
24	Evans Opening FN46	Apple
25	Evans Opening Table 3	Apple
26	Evans Opening 153	Apple
27		

1	Evans Opening FN47	Apple
2	Evans Opening FN48	Apple
3	Evans Opening FN49	Apple
4	Evans Opening FN50	Apple
5	Evans Opening Figure 2	Apple
6	Evans Opening 154	Apple
7	Evans Opening FN51	Apple
8	Evans Opening FN52	Apple
9	Evans Opening 172	Valve
10	Evans Opening 173	Valve
11	Evans Opening FN65	Valve
12	Evans Opening 177	Microsoft
13	Evans Opening 177	Valve
14	Evans Opening 182	Apple
15	Evans Opening 183	Apple
16	Evans Opening 184	Apple
17	Evans Opening FN74	Apple
18	Evans Opening Figure 3	Apple
19	Evans Opening 188	Apple
20	Evans Opening Table 7	Apple
21	Evans Opening 189	Apple
22	Evans Opening FN77	Apple
23	Evans Opening Figure 4	Apple
24	Evans Opening FN105	Apple
25	Evans Opening 229	Apple
26	Evans Opening Figure 5	Apple
27		

1	Evans Opening FN108	Apple
2	Evans Opening 241	Match
3	Evans Opening 242	Microsoft
4	Evans Opening 270	Apple
5	Evans Opening Table 8	Apple, App Annie
6	Evans Opening 288	Apple
7	Evans Opening 295	Apple
8	Evans Opening FN126	Apple
9	Rossi Opening 49	Apple
10	Cragg Rebuttal 9	Spotify
11	Cragg Rebuttal 56	Apple
12	Cragg Rebuttal Figure 4	Apple
13	Cragg Rebuttal 57	Apple
14	Cragg Rebuttal 65	Spotify
15	Cragg Rebuttal 69	Spotify
16	Cragg Rebuttal 70	Spotify
17	Cragg Rebuttal Figure 8	Spotify
18	Cragg Rebuttal 71	Spotify
19	Cragg Rebuttal FN10	Spotify
20	Cragg Rebuttal 94	Apple
21	Cragg Rebuttal Figure 18	Apple
22	Cragg Rebuttal 95	Apple, App Annie
23	Cragg Rebuttal Figure 19	App Annie
24	Cragg Rebuttal 99	Apple
25	Cragg Rebuttal Figure 21	Apple
26	Cragg Rebuttal 100	Apple

1	Cragg Rebuttal Figure 22	Apple
2	Cragg Rebuttal 102	Apple
3	Cragg Rebuttal Figure 23	Apple
4	Cragg Rebuttal 103	Apple
5	Cragg Rebuttal Figure 24	Apple
6	Cragg Rebuttal 105	Apple
7	Cragg Rebuttal Figure 25	Apple
8	Evans Rebuttal Table of Contents	Apple
9	Evans Rebuttal 2	Apple
10	Evans Rebuttal FN11	Samsung
11	Evans Rebuttal 34	Apple, Google
12	Evans Rebuttal FN34	Google
13	Evans Rebuttal FN 38	Apple
14	Evans Rebuttal 36	Apple
15	Evans Rebuttal 40	Apple
16	Evans Rebuttal 42	Apple
17	Evans Rebuttal 43	Apple
18	Evans Rebuttal 44	Apple
19	Evans Rebuttal 45	Apple
20	Evans Rebuttal FN50	Apple
21	Evans Rebuttal FN52	Apple
22	Evans Rebuttal FN54	Apple
23	Evans Rebuttal 46	Apple
24	Evans Rebuttal 47	Apple
25	Evans Rebuttal 49	Apple
26	Evans Rebuttal FN58	Apple
27		

1	Evans Rebuttal FN59	Apple
2	Evans Rebuttal 52	Valve
3	Evans Rebuttal FN65	Valve
4	Evans Rebuttal 64	Apple
5	Evans Rebuttal 71	Apple
6	Evans Rebuttal 74	Apple
7	Lee Rebuttal 35	Apple
8	Lee Rebuttal FN18	Apple
9	Lee Rebuttal 63	Apple
10	Lee Rebuttal FN30	Apple
11	Lee Rebuttal 67	Apple
12	Lee Rebuttal 68	Apple
13	Lee Rebuttal FN37	Apple
14	Lee Rebuttal FN38	Apple
15	Lee Rebuttal FN39	Apple
16	Lee Rebuttal 99	Apple
17	Lee Rebuttal FN76	Apple
18	Lee Rebuttal 119	Apple
19	Lee Rebuttal FN89	Apple
20	Mathiowetz Rebuttal 12	Apple
21	Mathiowetz Rebuttal 70	Apple
22	Mathiowetz Rebuttal 71	Apple

24 4. Epic will provide prompt notice to any third parties who may have
25 confidentiality interests in information provisionally sealed in its Expert Written Direct
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27
28

1 Testimonies so that those third parties may determine whether to request sealing of such
2 information by the Court.

3
4 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is
5 true and correct and that I executed this declaration on April 27, 2021 in Oakland, California.
6
7

8 */s/ M. Brent Byars*
9 M. Brent Byars